

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25497 of 2012

Arising Out of PS.Case No. -289 Year- 2010 Thana -null District- JAMUI

- =====
1. Rani Sinha, w/o Basudeo Sinha,
 2. Basudeo Sinha, s/o late Bhabhi Khan Sinha,
 3. Arun Sinha, s/o Basudeo Sinha, all resident of village- Mara Fari, P.S. Chas, District Bokaro (Jharkhand), at present Check Post Chas, P.S. Chas, District Bokaro (Jharkhand).

.... Petitioner/s

Versus

1. State of Bihar.
2. Shailendra Kumar Verma, s/o late Jyotish Prasad Verma, R/o Village Maharajganj, P.S. + District Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambika Bhagat, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 21-07-2017

1. Interlocutory Application No.993 of 2017 has been filed on behalf of the petitioners that petitioner No.1, Rani Sinha, has died on 17.10.2016 at All India Institute of Medical Sciences, New Delhi.

2. In view of such, this application is dismissed as withdrawn in so far as it relates to petitioner No.1-Rani Sinha.

3. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 05.06.2012 passed by the Judicial Magistrate, 1st class, Jamui, in Complaint Case No.289-C of 2011 by which the learned Magistrate on the basis of Protest-cum-Complaint Petition has found *prima*



facie case against the petitioners for the offence under Section(s) 302/34 Indian Penal Code.

4. Counsel for the petitioners has submitted initially Complaint Case No.289-C of 2011 was filed, which was sent to P.S. under Section 156 (3) Cr. P. C. The police found the case false against the petitioners, who happen to be the close relative of the deceased. Thereafter, on the basis of protest petition, learned Magistrate proceeded for enquiry under Section 202 Cr. P. C. and after recording Solemn Affirmation of the complainant and statement of the witness recorded during enquiry found *prima facie* case against the petitioners and others for the offence under Section(s) 302/34 Indian Penal Code.

5. The Magistrate is required only to see *prima facie* case at the time of holding enquiry on the basis of statement of the complainant on Solemn Affirmation and statement of other witnesses recorded during enquiry.

6. Therefore, this Court does not find any illegality to interfere with the impugned order dated 05.06.2012 passed by the Judicial Magistrate, 1st class, Jamui, in Complaint Case No.289-C of 2011.

7. However, petitioners are given liberty to raise all these points, as raised in the present application, before the learned



Court below at the time of framing of Charge, which shall be considered and disposed of by the learned Court below in accordance with law without being prejudiced by this order.

8. This application is, accordingly, disposed off with the aforesaid observation.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-08-2017
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